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Attorneys for Defendant
GLEN EDWARD GARNER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:18-cr-00317-JAD-VCF
)	
v.)	
)	
GLEN EDWARD GARNER,)	
)	
Defendant.)	
_____)	

STIPULATION AND ORDER TO CONTINUE DEADLINE FOR FILING OF
PRETRIAL MOTIONS AND RELATED DATES
(Sixteenth Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Defendant GLEN EDWARD GARNER, by and through his attorney (Richard J. Pocker, Esq. of the law firm of Boies Schiller Flexner LLP), and the Plaintiff UNITED STATES OF AMERICA (hereinafter, “the Government”), by and through its attorney (Assistant United States Attorney Kevin Schiff), that the deadline for the filing of pretrial motions be extended to March 15, 2021, and the due date for any responses to pretrial motions be extended to March 29, 2021.

This Stipulation is entered into for the following reasons:

1. The present case is currently set for trial on May 18, 2021. The date by which pretrial motions are to be filed is February 19, 2021, but the parties filed a Stipulation on

1 February 9, 2021 to extend the deadline to March 1, 2021. That Stipulation (ECF No. 91) has
2 not yet been approved or rejected by the Court.

3 2. As set forth in great detail in earlier filings and stipulations, the discovery period
4 in the present case has been different than in ordinary criminal cases, in that motions practice
5 has resulted in a more voluminous production of evidence and documents by the Government,
6 with the high volume of sensitive materials having being produced subject to a Protective Order
7 entered by U.S. Magistrate Judge Ferenbach. Under the terms of that Protective Order,
8 Defendant GARNER is permitted to view the produced documents and listen to the produced
9 recording only in his counsel's offices, and is not permitted to copy or possess those materials
10 outside counsel's offices. Moreover, the vast majority of the produced materials were
11 disclosed after the commencement of the COVID-19 public health crisis. The lockdowns,
12 access restrictions and safety protocols which resulted from the governmental directives issued
13 to address the crisis have made it impossible for Defendant GARNER and his counsel to meet
14 in person to discuss and review the sensitive materials for purposes of completing Defendant
15 GARNER's pretrial motions. As deeply involved and concerned as he is with the preparation
16 of his case, the combination of the COVID-19 public health crisis and the Protective Order
17 severely handicaps his motions and trial preparation. In addition to those factors, Defendant
18 GARNER himself contracted the COVID-19 virus in late 2020, and was quarantined and
19 unavailable for meaningful consultation. The offices of Defendant GARNER's counsel (the
20 law firm of Boies Schiller Flexner, LLP) have been closed to the public and non-employees
21 since March of 2020, and the staff has been working remotely since that time, with the rarest of
22 exceptions. Boies Schiller Flexner has been restricting access to its offices in the interest of
23 maintaining the health of its attorneys and employees, as well as to cooperate as completely as
24 practical with the governmental directives.

25 3. Defendant GARNER's counsel is working out arrangements for him to be
26 present in counsels office to review the extensive materials provided by the Government, but it
27 does not appear that those arrangements can be finalized on or before March 1, 2021.
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1 Consequently, Defendant GARNER requests this extension of the motions deadline to March
2 15, 2021.

3 4. Defendant GARNER, his counsel and his expert Michael Levine have been
4 engaged in analyzing evidence and preparing to file necessary pretrial motions, as well as they
5 can given the COVID-19 public health crisis. Counsel for Defendant GARNER requests
6 additional time to review and analyze the discovery materials provided by the Government, and
7 to finalize arrangements to meet and strategize with Defendant GARNER as well as to receive
8 and utilize the remote assistance of Mr. Levine. The recent public health crisis posed by the
9 COVID 19 pandemic has impacted the ability of Defendant GARNER and his counsel to
10 effectively prepare the necessary pretrial motions, given the medical and governmental
11 restrictions attendant to the local Nevada community. Given the necessity of preparing and
12 assembling such motions in a situation where face to face meetings between client and counsel
13 were and are inadvisable and counsel's staff is working remotely, a short additional extension
14 of deadlines related to pretrial motions is necessary. Such an extension will have no effect on
15 the May 18, 2021 trial setting. The parties hereby agree that the due date for pretrial motions
16 should be extended to March 15, 2021, and that the deadline for responding to these motions be
17 extended to March 29, 2021.

18 5. Counsel for both Defendant GARNER and the Government are in agreement
19 with respect to the Defendant's need for a continuance of the due date for pretrial motions.

20 6. Defendant GARNER is free on pretrial release pending trial, and has no
21 objection to the requested continuance, as it will enhance the thoroughness of his trial
22 preparation. He is insistent on receiving and reviewing as much helpful and useful evidence as
23 possible in response to his earlier motions, and to having his pretrial motions as comprehensive
24 as possible.

25 7. Denial of this request for continuance will result in a miscarriage of justice,
26 given the necessity of further informed preparation by Defendant GARNER and his counsel,
27 with access to any additional materials Mr. Levine or the Government might make available,
28 and taking into account the restrictions upon conduct created by the pandemic. Moreover,

1 placing Defendant GARNER at a disadvantage with respect to motion preparation due partially
2 to his responsible actions in honoring quarantine instructions in light of his COVID-19 illness
3 would be an egregious miscarriage of justice.

4 8. The extension of deadlines contemplated by this Stipulation does not impact the
5 currently scheduled trial date of May 18, 2021, a date which may, in any event be continued
6 due to the pandemic . Nonetheless, the additional time requested by this Stipulation is
7 excludable in computing the time in which the trial herein must commence pursuant to the
8 Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when considering the
9 factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

10 9. This is the sixteenth request for an extension of the date by which pretrial
11 motions must be filed, although most of those earlier requests were in conjunction with
12 stipulations to continue the trial date, and one request was a Stipulation not yet acted upon by
13 the Court, which will become moot should the Court approve this present Stipulation.

14 DATED this 19th day of February, 2021.

15 BOIES SCHILLER FLEXNER LLP

NICHOLAS A. TRUTANICH
United States Attorney

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17 By: /s/ Richard J. Pocker
18 RICHARD J. POCKER, ESQ.
Counsel for Glen Edward Garner

By: /s/ Kevin Schiff
KEVIN SCHIFF
Assistant United States Attorney

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I.

FINDINGS OF FACT

Based upon the pending Stipulation of counsel, and good cause appearing therefor, the Court finds that:

1. The present case is currently set for trial on May 18, 2021, and the deadline for filing pretrial motions is February 19, 2021. Counsel for Defendant GARNER requests additional time to review and analyze the additional discovery materials to be provided by the Government and to meet and strategize with Defendant GARNER, as well as to receive the complete assistance of his retained expert, Michael Levine.

2. Counsel for both Defendant GARNER and the Government are in agreement with respect to the Defendant's need for continuance of the due date for the filing of pretrial motions.

1 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
2 United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United
3 States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

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6 **ORDER**

7 Based on the pending Stipulation of counsel, and good cause appearing,

8 IT IS FURTHER ORDERED that all additional Pretrial Motions are due on or before
9 March 15, 2021 and Responses thereto are due on March 29, 2021. Replies due on or before
10 April 5, 2021.

11 IT IS FURTHER ORDERED that ECF No. 91 is DENIED as moot.

12 DATED this 23rd day of February, 2021.

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15 UNITED STATES DISTRICT JUDGE
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